

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LUIS MONELL,

Plaintiff,

v.

8:08-CV-0821

**MICHAEL J. ASTRUE¹
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

APPEARANCES:

OF COUNSEL:

**Erwin, McCane Law Firm
23 Elk Street
Albany, NY 12207
Counsel for Plaintiff**

Thomas C. Erwin, Esq.

**Office of Regional General Counsel
Social Security Administration
Region II
26 Federal Plaza - Room 3904
New York, NY 10278
Counsel for Defendant**

Karla J. Gwinn, Esq.

NORMAN A. MORDUE, CHIEF U. S. DISTRICT JUDGE

ORDER

The above matter comes to me following a Report-Recommendation by Magistrate Judge Victor E. Bianchini, duly filed on the 16th day of November 2009. Following ten days from the service thereof, the Clerk has sent me the file, including any and all objections filed by the parties herein.

¹ Michael J. Astrue became the Commissioner of Social Security on February 12, 2007. Pursuant to Federal Rule of Civil Procedure 25(d)(1), Michael J. Astrue is substituted as the Defendant in this suit.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

ORDERED that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Commissioner's decision denying disability benefits is remanded for further proceedings.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the Magistrate Judge assigned to this case.

IT IS SO ORDERED.

Dated: December 3, 2009
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge